

abandoning high cost areas in order to compete effectively in the low cost areas. Either result would produce less competition and higher rates for consumers in all areas. As Sprint states: "This makes no sense in a competitive market."⁵³

Fortunately, as the comments make clear, the 1996 Act does not require any such pernicious result, but instead authorizes the Commission to continue to implement its rate averaging policies in a balanced and flexible manner that accommodates the needs of effective competition.⁵⁴ To avoid future misunderstanding and the possibility of burdensome litigation,⁵⁵ however, it is critically important that the Commission make clear now that it will continue flexible rate averaging policies. In particular, as urged by AT&T and endorsed by numerous other parties, the Commission should make clear that:

- (1) Interexchange carriers may continue to assess surcharges to recover state-specific costs arising from state gross receipts taxes;⁵⁶

⁵³ Sprint, pp. 16-17. See also BellSouth, pp. 5-6; CWI, pp. 4-5; TRA, p. 30; LDDS WorldCom, p. 14; GSA, pp. 7-8.

⁵⁴ See TRA, pp. 27-30 ("geographic rate averaging . . . must be implemented in a balanced and reasoned manner if the laudable goal of ensuring the availability of affordable telecommunications services to all is to be met without interfering with market forces"); AT&T, pp. 31-33; MCI, pp. 29-31; Sprint, pp. 11-17; CWI, pp. 4-5; Florida PSC, pp. 13-14; CompTel, pp. 7-9; GSA, p. 8; LDDS WorldCom, pp. 13-14; Frontier, p. 9; GCI, p. 8; ACTA, pp. 8, 10; USTA, p. 3.

⁵⁵ See MCI, p. 33.

⁵⁶ See AT&T, pp. 35-36; MCI, p. 28 n.42; ACTA, p. 8.

- (2) Interexchange carriers may continue to provide regional promotions, point-to-point private line rates, and Tariff 12, contract tariff and other high end business services in the manner they are offered today;⁵⁷
- (3) Interexchange carriers may continue to respond to the needs of customers in particular areas or regions by taking any pricing action justified by competitive necessity;⁵⁸ and
- (4) State rules for intrastate rate averaging are preempted to the extent that they are not narrowly focused, would distort competition, or are otherwise inconsistent with the rules for interstate rate averaging.⁵⁹

Furthermore, as AT&T, BellSouth, and a number of other parties demonstrate,⁶⁰ the Commission should forbear from applying geographic rate averaging to the services of nondominant carriers under Section 10 of the 1996 Act.⁶¹ Such forbearance would be

⁵⁷ See AT&T, pp. 35-39; MCI, pp. 31-32, 34-35; Sprint, p. 15; LDDS WorldCom, p. 13; CWI, pp. 4-5; TRA, pp. 29-30; CompTel, p. 7; GCI, p. 8; Frontier, p. 9; GSA, p. 8; ACTA, p. 10; USTA, p. 3. See also Joint Explanatory Statement at 132 (expressing the intent of Congress that the Commission should continue to authorize non-averaged rates for specific services such as those offered under Tariff 12 contracts and that the renegotiation of existing contracts is not required).

⁵⁸ See AT&T, pp. 40-42; BellSouth, p. 6; MCI, pp. 30 n.47, 32; Sprint, p. 14; LDDS WorldCom, p. 14; GSA, p. 8.

⁵⁹ See NPRM, ¶ 68; AT&T, p. 42; MCI, pp. 28-29; Florida PSC, p. 13; NARUC, p. 3; Ameritech, p. 15; GTE, p. 15; TDA, p. 3.

⁶⁰ See AT&T, p. 39; BellSouth, pp. 5-8; MCI, p. 29; MFS, pp. 8-10; Sprint, p. 17; ACTA, p. 9.

⁶¹ 47 U.S.C. § 160.

appropriate on the basis of the Commission's tentative conclusions in the NPRM that nondominant carriers lack the market power to discriminate unreasonably and that, because their rates are subject to effective competition, it is not necessary to require them to file tariffs for their services in order to ensure that rates are just, reasonable and not unreasonably discriminatory, to protect the interests of consumers, or to protect the public interest.⁶² Indeed, where these statutory criteria are met, Section 10 requires forbearance.⁶³ Moreover, there is no question but that forbearance here "will promote competition among providers of telecommunications services" and, therefore, that "forbearance is in the public interest."⁶⁴

At the same time, if the Commission deems it appropriate to monitor rate averaging more closely, it could, as several of the comments suggest, require all interexchange carriers to file a schedule of nationwide averaged basic rates available to all residential customers.⁶⁵ This approach would satisfy the fundamental universal service objective of rate averaging by ensuring that basic telecommunications service is available to all Americans at reasonable nationwide rates.

⁶² See NPRM, ¶¶ 19, 28.

⁶³ 47 U.S.C. § 160(a) (Commission "shall forbear" where statutory criteria are met). See also NYNEX, p. 2; AT&T, pp. 32 n.58, 37.

⁶⁴ 47 U.S.C. § 160(b).

⁶⁵ See AT&T, pp. 39-40; MCI, p. 32 n.52; GCI, p. 8; GTE, p. 17; Frontier, p. 9; TRA, p. 29; CompTel, pp. 8-9.

Finally, a number of the comments recognize that the current high level of access charges imposed on interexchange carriers is one of the principal problems that creates pressures to deaverage interexchange rates.⁶⁶ High access charges are also one of the most formidable obstacles to local competition, and the 1996 Act requires that access charges be overhauled so that subsidy obligations are removed and prices are driven to efficient, forward-looking cost-based levels. After this occurs, access prices will be far lower and more uniform than they are today, and a reasonable rate averaging policy should impose fewer burdens and anomalies. Until access reform is complete, however, it is particularly important that interexchange carriers not be doubly penalized, first by having to pay inflated prices for monopoly access services, and second by being forbidden efficiently to reflect those costs in competitive pricing. Accordingly, the Commission should defer the implementation of rate averaging rules until such access reform is complete.

⁶⁶ See AT&T, pp. 34, 30 n.65; RTC, p. 12; Florida PSC, p. 14; ACTA, p. 8; MCI, p. 28 n.42; MFS, p. 9.

CONCLUSION

For the reasons set forth above and in its initial comments, AT&T urges the Commission to (1) retain its existing single national interexchange services market definition, (2) impose more stringent structural separation safeguards on LECs' provision of out-of-region interexchange services, and (3) adopt reasonable and flexible rate averaging and rate integration rules that are compatible with the pro-competition goals of the Act.

Respectfully submitted,

AT&T Corp.

David W. Carpenter
Peter D. Keisler
David L. Lawson
SIDLEY & AUSTIN
One First National Plaza
Chicago, Illinois 60603
(312) 853-7237

Richard H. Rubin

Mark C. Rosenblum *CR*
Leonard J. Cali
Richard H. Rubin
Room 3252I3
295 North Maple Avenue
Basking Ridge, NJ 07920
(908) 221-4481

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ATTACHMENT A


Parties Filing Comments In CC Docket No. 96-61, Phase I

Alabama Public Service Commission ("Alabama PSC")
State of Alaska ("Alaska")
American Petroleum Institute ("API")
American Public Communications Council ("APCC")
America's Carriers Telecommunication Association ("ACTA")
Ameritech
AMSC Subsidiary Corporation ("AMSC")
AT&T Corp. ("AT&T")
Bell Atlantic
BellSouth Corporation ("BellSouth")
Cable & Wireless, Inc. ("CWI")
Frank Collins
Columbia Long Distance Services, Inc. ("CLDS")
Competitive Telecommunications Association ("CompTel")
Florida Public Service Commission ("Florida PSC")
Frontier Corporation ("Frontier")
Governor of Guam and Guam Telephone Authority ("Guam")
Guam Public Utility Commission ("Guam PUC")
General Communication, Inc. ("GCI")
General Services Administration ("GSA")
GTE Service Corporation ("GTE")
State of Hawaii ("Hawaii")
Iowa Utilities Board ("Iowa Board")
IT&E Overseas, Inc. ("IT&E")
LDDS WorldCom
Paul Lee
Kevin Loflin
MCI Telecommunications Corporation ("MCI")
MFS Communications Company, Inc. ("MFS")
Missouri Public Service Commission ("Missouri PSC")
National Association of Regulatory Utility Commissioners ("NARUC")
Commonwealth of the Northern Mariana Islands ("Mariana Islands")
NYNEX Telephone Companies ("NYNEX")
Ohio Consumers' Counsel
Ohio Public Utilities Commission ("Ohio PUC")
Peggy Orlic
Pacific Telesis ("Pacific")
Pennsylvania Office of Consumer Advocate ("Pa. Consumer Advocate")
Rural Telephone Coalition ("RTC")
SBC Communications Inc. ("SBC")
Scherers Communications Group ("SCG")
Southern New England Telephone Company ("SNET")
Sprint Corporation ("Sprint")
Kristine Stark
John Staurulakis, Inc. ("Staurulakis")
Michael Sussman
TCA Inc. ("TCA")
TDS Telecommunications Corporation ("TDS")

Telecommunications Resellers Association ("TRA")
United States Telephone Association ("USTA")
U S West, Inc. ("US West")
Vanguard Cellular Systems, Inc. ("Vanguard")
Harvey William Ward, Jr.
Washington Utilities and Transportation Commission
("Washington UTC")

Certificate of Service

I, C. John Buresh, hereby certify that on this 3rd day of May 1996 I caused the persons listed on the attached service list to be served by first class mail, postage prepaid, with one copy of the foregoing Reply Comments of AT&T Corp.:


C. John Buresh

Service List

Mary E. Newmeyer
Alabama Public Service
Commission
PO Box 991
Montgomery, AL 36101

John W. Katz
Director, State-Federal
Relations
Office of the State of Alaska
Suite 336
444 North Capitol Street, NW
Washington, DC 20001

Robert M. Halperin
Crowell & Moring
1001 Pennsylvania Avenue, NW
Washington, DC 20004

C. Douglas Jarrett
Susan M. Hafeli
Brian Turner Asby
Keller and Heckman
1001 G Street, NW
Suite 500 West
Washington, DC 20001

Charles H. Helein
Helein & Associates, PC
8180 Greensboro Drive
Suite 700
McLean, VA 22102

Gary L. Phillips
1401 H Street, NW
Suite 1020
Washington, DC 20005

Edward Shakin
1320 North Court House Road
8th Floor
Arlington, VA 22201

John F. Beasley
William B. Barfield
Jim O. Llewellyn
1155 Peachtree Street, NE,
Suite 1800
Atlanta, GA 30309-2641

Charles P. Featherstun
David G. Richards
1133 21st Street, NW
Washington, DC 20036

Kathryn Matayoshi
Charles W. Totto
Department of Commerce &
Consumer Affairs
250 South King Street
Honolulu, HI 96813

Danny E. Adams
Edward A. Yorkgitis, Jr.
Steven A. Augustino
Kelley Drye & Warren
1200 19th Street, NW
Suite 500
Washington, DC 20036

Ann P. Morton
Cable & Wireless, Inc.
8219 Leesburg Pike
Vienna, VA 22182

Cynthia Miller
Florida Public Service
Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Michael J. Shortley, III
Frontier Corporation
180 South Clinton Avenue
Rochester, NY 14646

Genevieve Morelli
Competitive Telecommunications
Association
1140 Connecticut Avenue, NW
Suite 220
Washington, DC 20036

Kathy L. Shobert
Director, Federal Affairs
General Communication, Inc.
901 15th Street, NW, Suite 900
Washington, DC 20005

Michael J. Ettner
Emily C. Hewitt
Vincent L. Crivella
General Services
Administration
18th & F Street, NW, Room 4002
Washington, DC 20405

Andrew D. Lipman
Erin M. Reilly
Swidler & Berlin, Chartered
300 K Street, NW, Suite 300
Washington, DC 20007

Gail M. Polivy
1850 M Street, NW, Suite 1200
Washington, DC 20036

Herbert E. Marks
Marc Berejka
Squire, Sanders & Dempsey
1201 Pennsylvania Avenue, NW
PO Box 407
Washington, DC 20044

Catherine R. Sloan
Richard L. Fruchterman
Richard S. Whitt
LDDS WorldCom
1120 Connecticut Avenue, NW
Suite 400
Washington, DC 20036

Donald J. Elardo
Frank W. Krogh
Mary J. Sisak
MCI Telecommunications Corp.
1801 Pennsylvania Avenue, NW
Washington, DC 20006

Eric Witte
Missouri Public Service
Commission
PO Box 360
Jefferson City, MI 65102

Lisa M. Zaina
Stuart Polikoff
21 Dupont Circle, NW
Suite 700
Washington, DC 20036

Paul Rodgers
Charles D. Gray
James Bradford Ramsay
NARUC
1201 Constitution Avenue,
Suite 1102
PO Box 684
Washington, DC 20044

Joseph DiBella
Donald C. Rowe
1300 I Street, NW
Suite 400 West
Washington, DC 20005

Andrea M. Kelsey
David C. Bergmann
The Office of the Ohio
Consumers' Counsel
77 South High Street, 15th Fl
Columbus, OH 43266-0550

Marlin D. Ard
John W. Bogy
140 New Montgomery Street
Room 1530A
San Francisco, CA 94105

Margaret E. Garber
1275 Pennsylvania Avenue, NW
Washington, DC 20004

Philip McClelland
Office of Consumer Advocate
1425 Strawberry Square
Harrisburg, PA 17120

Margot Smiley Humphrey
Koteen & Naftalin, LLP
1150 Connecticut Avenue, NW
Suite 1000
Washington, DC 20036

David Cosson
L. Marie Guillory
2626 Pennsylvania Avenue, NW
Washington, DC 20037

James D. Ellis
Robert M. Lynch
David F. Brown
175 E. Houston
Room 1254
San Antonio, TX 78205

Madelyn M. DeMatteo
Alfred J. Brunetti
Marua C. Bollinger
Southern New England Telephone
Company
227 Church Street
New Haven, CT 06506

Rodney L. Joyce
Ginsburg, Feldman and Bress
1250 Connecticut Avenue, NW
Washington, DC 20036

Leon M. Kestenbaum
Kent Y. Nakamura
1850 M Street, NW, 11th Floor
Washington, DC 20036

Michael S. Fox
John Staurulakis, Inc.
6315 Seabrook Road
Seabrook, MD 20706

Chris Barron
TCA, Inc.
3617 Betty Drive, Suite I
Colorado Springs, CO 80917

Charles C. Hunter
Hunter & Mow, PC
1620 I Street, NW
Suite 701
Washington, DC 20006

Mary McDermott
Linda Kent
Charles D. Cosson
1401 H Street, NW, Suite 600
Washington, DC 20005

Robert B. McKenna
Coleen M. Egan Helmreich
Suite 700
1020 19th Street, NW
Washington, DC 20036

Robert F. Aldrich
Dickstein, Shapiro & Morin
2101 L Street, NW
Washington, DC 20037-1526

Lon C. Levin
AMSC Subsidiary Corporation
10802 Park Ridge Boulevard
Reston, VA 22091

Bruce D. Jacobs
Glenn S. Richards
Fisher Wayland Cooper
Leader & Zaragoza LLP
2001 Pennsylvania Ave., NW
Suite 400
Washington, DC 20006

Paul R. Rodriguez
Stephen D. Baruch
David S. Keir
Leventhal, Senter & Lerman
2000 K Street, NW
Suite 600
Washington, DC 20006

Philip L. Verveer
Brian A. Finley
Willkie Farr & Gallagher
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20036

Veronica M. Ahern
Nixon Hargrave Devans & Doyle
One Thomas Circle, NW
Suite 700
Washington, DC 20005

Frank C. Torres, III
Washington Liaison Office
of the Governor of Guam
444 North Capitol Street
Washington, DC 20001

William H. Smith, Jr.
Bureau of Rate and Safety
Evaluation
Iowa Utilities Board
Lucas State Office Building
Des Moines, IA 50319

Margaret L. Tobey
Phuong N. Pham
Akin, Gump, Strauss, Hauer &
Feld LLP
1333 New Hampshire Avenue, NW
Suite 400
Washington, DC 20036

Thomas K. Crowe
Kathleen L. Greenan
Law Offices of Thomas K. Crowe
2300 M Street, NW
Suite 800
Washington, DC 20037

Jim Schlichting
Federal Communications
Commission
Tariff Division
Room 544
1919 M Street, NW
Washington, DC 20554

Betty D. Montgomery
Duane W. Luckey
Steven T. Nourse
Public Utilities Section
180 East Broad Street
Columbus, OH 43266-0573

Raymond G. Bender, Jr.
J.G. Harrington
Christopher Libertelli
Dow, Lohnes & Albertson
1200 New Hampshire Avenue, NW
Suite 800
Washington, DC 20037

Sharon Nelson
Richard Hemstad
William R. Gillis
Washington Utilities and
Transportation Commission
PO Box 47250
Olympia, WA 98504-7250

Kristine Stark
272 Fifth Avenue
E. McKessport, PA 15035

Peggy Orlic
501 8th Syreet
Irwin, PA 15642

Harvey William Ward, Jr.
c/o Donna Pippin
22455 Spry Larmore Road
Quantico, MD 21856

Paul Lee
PO Box 1280
Beaver, WV 25813

Frank Collins
3151 East 116 Street
Cleveland, OH 44120

Kevin Loflin
159 Ivy Dale Road
Harmony, NC 28634

Michael Sussman
112 Croyden Avenue
Great Neck, NY 11023

Susan Drombetta
575 Scherers Court
Worthington, OH 43085

Zankle Worldwide Telecom
1013 Centre Road, #350
Wilmington, DE 19805

Regina M. Keeney
Federal Communications
Commission
Common Carrier Bureau
Room 500
1919 M Street, NW
Washington, DC 20554

Janice Myles
Federal Communications
Commission
Common Carrier Bureau
1919 M Street, NW
Room 544
Washington, DC 20554

International Transcription
Services, Inc.
2100 M Street, NW
Suite 140
Washington, DC 20037